



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT 1949 READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATION OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.

File No. [PR/354/14/DD/375/2014/DC/537/2017]

In the matter of:

Superintendent of Police

CBI, BS & FC

No. 36, Bellary Road, Ganganagar

Bangalore-560 032

.....Complainant

Versus

CA. M Hariharan (M. No.022412)

304/B, HVS Courts

21 Cunnigham Road

Bangalore-560 052

.....Respondent

Members present:

CA. Atul Kumar Gupta, Presiding Officer

Smt. Anita Kapur, Member (Govt. Nominee)

Shri Ajay Mittal, Member (Govt. Nominee)

CA. Manu Agrawal, Member

Date of Final Hearing: 13th August 2020 through Video Conferencing

Place of Hearing: Gurugram

1. Vide report dated 16th December, 2019 (**copy enclosed**), the Disciplinary Committee was of the opinion that **CA. M Hariharan (M. No.022412)** was **GUILTY** of Professional Misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 with respect to auditing of the financial statements and certifying net worth statements in respect of Directors of M/s AGS Infotech Ltd (hereinafter referred as the "**Company**"). It is noted that the Respondent is guilty under Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 as per which the Respondent :

"does not exercise due diligence, or is grossly negligent in the conduct of his professional duties."

2. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 31st July 2020 was addressed to him thereby granting him an opportunity of being heard in person and/or to make a written representation before the Committee on 13th August 2020 through video conferencing.



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3. The Respondent appeared before the Committee on 13th August 2020 through video conferencing from Branch Office of ICAI at Bangalore and made oral submissions wherein he inter-alia stated that he had certified the networth statements and verified the Financial Statements based on the information made available to him by his clients. With respect to networth certificate, he submitted to have primarily relied upon independent valuation report and a legal report relating to title deed of the professional identified and appointed by the Bank.

4. The Committee considered the oral submissions made by the Respondent. The Committee was of the view that the Respondent did not act diligently as he was required to review the title deeds and mere reliance either on the tile deeds, valuation report or the oral submissions provided by the Client was not sufficient to meet the scales of diligence before carrying out an attestation function. It was viewed that if the Bank had to rely upon the work of the other professional(s) identified by it then the Bank would have waived off with the requirement of obtaining certificate from an independent Chartered Accountant. The Respondent, in his professional capacity, was issuing an independent certificate so he was expected to carry out an independent examination as was warranted under the circumstances. The Committee further was of the opinion that he was required to verify the existence of assets like jewelry and property with respect to their ownership as well as valuation before certifying them in the net worth certificate. Further, it was noted that the financial statements were also certified by him without verification of the details as was expected of a professional.

6. The Committee noted that the Respondent has been held guilty within the meaning of clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 and keeping in view the facts and circumstances of the case as aforesaid, ordered the removal of name of Respondent **CA. M Hariharan (M. No.022412)** from the Register of Members for a period of 2(two) years beside imposing a fine of Rs. 25,000/- (Rupees Twenty Five Thousand Only) which shall run concurrently with the punishment awarded in another matter against the Respondent in case reference no. PR/46/14/DD/76/2014/DC/566/2017.

sd/-
[CA. Atul Kumar Gupta]
Presiding Officer

sd/-
[Smt. Anita Kapur]
Member, (Govt. Nominee)
(approved & confirmed through e-mail)

sd/-
[Shri Ajay Mittal]
Member, (Govt. Nominee)
(approved & confirmed through e-mail)

sd/-
[CA. Manu Agrawal]
Member
(approved & confirmed through e-mail)

Date: 13th August 2020 (passed through VC)



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CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2019-2020)]

[Constituted under Section 21B of the Chartered Accountants Act, 1949]

Findings under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

File No. [PR/354/14/DD/375/2014/DC/537/2017]

In the matter of:

**Superintendent of Police
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Versus

**CA. M Hariharan (M. No.022412)
304/B, HVS Courts
21 Cunnigham Road
Bangalore-560 052**

.....Respondent

MEMBERS PRESENT:

- 1. CA. Atul Kumar Gupta, Presiding Officer**
- 2. CA. Amarjit Chopra, Government Nominee**
- 3. CA. Rajendra Kumar P, Member**

- 4. CA. Chandrashekhar V. Chitale, Member**

DATE OF FINAL HEARING : 04.07.2019
PLACE OF FINAL HEARING : ICAI, CHENNAI

PARTIES PRESENT:

Respondent : CA. M. Hariharan



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Charge in brief:-

1. The Charge in which the Respondent was prima facie held guilty is as under:-

1.1 The Complainant stated that Shri G. Dhananjaya Reddy, Shri Manivannan, Smt B.S. Padmavathi and Shri V. Suryanarayana cheated the United Bank of India (hereinafter referred as the “**Bank**”), Electronic City Branch, Bangalore to the tune of Rs.29.49 crores by fraudulent means in the matter of sanction and availment of loan facilities of Rs.23.73 crores (Term Loan Rs.18.73 crores + CC limit Rs.5.00 crores) in the name of M/s AGS Infotech Ltd (hereinafter referred as the “**Company**”) by furnishing incorrect information about the ownership of the property held in the name of Smt. B.S. Padmavathi W/o Shri H.S. Aswath, which was offered as additional security, by impersonation and also by submitting highly inflated valuation reports and by diverting the bank funds for other purpose.

Investigation had also revealed the lapses/laxity in the preparation/auditing of the financial statements in respect of the Company as the Respondent has not verified independently the genuineness of the various transactions, sundry creditors/debtors.

While certifying net worth statements in respect of Directors of the Company, the Respondent did not verify any documents and on the basis of oral information, he certified the same.

Brief of Proceeding :

2. The Committee noted that the Respondent in person was present and appeared before it.



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2.1 The Complainant was not present despite notice was duly served upon him. The Committee decided to proceed in absence of the Complainant based upon available papers on record.

2.2 Since this was the first hearing, the Respondent was put on oath. In the absence of the Complainant, the office explained the charges to the Respondent and being enquired by the Committee, he plead not guilty and wished to defend the charges.

2.3 The Respondent made submissions before the Committee in his defense. After recording the submissions of the Respondent, the Committee concluded the hearing in the captioned matter.

FINDINGS :

3. The Committee noted that on 4th of July, 2019, the hearing was scheduled in subject case and there was nobody present from the Complainant Department. As the Respondent was present in person, he made his oral submission and pleaded that he is not guilty for the charges alleged against him.

3.1 The Respondent submitted that he relied upon the valuation report and a legal report relating to title deed in the subject case. When being asked from the Respondent by the Committee that whether he verified the title deed or how he arrived to the valuation of the jewellery, the answer of the Respondent was that he neither reviewed the title deed and nor he was having any information about the jewellery value.

3.2 Further, based upon oral submissions provided by the clients, he prepared the net worth certificate. In relation to the balance sheet/financial statement also he mentioned that whatever the papers were available/ given to him, based on that he prepared and certified the financial statement as well.



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3.3 In view of submission made by the Respondent, the Committee is of the view that the Respondent did not acted diligently as he was supposed to review the title deeds and was supposed to check whether there is any base for jewellery valuation which he declared in the net worth certificate.

3.4 Looking into all these scenario and a financial statement prepared without going through the various papers and the verification of the details as is expected of a professional. The Committee is of the opinion that the Respondent is guilty of the profession misconduct.

CONCLUSION :

4. Thus, in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-
(CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER

Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(CA. RAJENDRA KUMAR P)
CHITALE)
MEMBER

Sd/-
(CA. CHHANDRASHEKHAR V.
MEMBER

DATE : 16th December, 2019

PLACE : New Delhi